

Mediation Services Agreement
between
Nebraska Vocational Rehabilitation (VR)
and the
Nebraska Mediation Centers Association (NMCA)
March 11, 2010

Notification

VR is responsible for providing information about mediation to all recipients of VR services at application, at approval of the Individualized Plan of Employment, and whenever a VR consumer disagrees with a VR determination. A Mediation Brochure is available for consumers.

Types of Disputes

Any VR determination that affects the provision of vocational rehabilitation services to a consumer can be mediated. Factual statutory and regulatory issues will not be mediated. If there is a question regarding factual statutory or regulatory issues, a NMCA Center may contact a program director at the VR State Office by calling 1.877.637.3422.

Mediation Request

A VR consumer and the Client Assistance Program may jointly contact the NMCA Center in their area to request mediation. A joint consumer and CAP request for mediation indicates that VR is agreeing to participate in mediation. CAP can be contacted at 402.3656 or 1.800.742.7594.

A VR consumer and a VR staff member may request mediation using the agency's Mediation Referral Form. The referral form requires the signature of the consumer and a VR Specialist and the approval of an Office Director. The completed Mediation Referral form indicates that VR and the consumer are agreeing to participate in mediation.

VR will prepare a Letter Contract that must be signed by the NMCA Center before the mediation service begins. The Letter Contract identifies the VR consumer participating in the mediation service and documents that VR and the NMCA Center have agreed on the costs of the mediation service.

A VR consumer may contact a NMCA Center directly without any consultation with CAP or VR to request mediation. With such a request, VR has the option of agreeing to or declining to participate.

Mediation Request Time Frames

If a VR consumer receives an Office Director Letter informing him or her of a VR determination and their right (1) to appeal the determination through a Fair Hearing, (2) to seek the help of the Client Assistance Program, and/or (3) to request mediation, the consumer must exercise those rights within 30 days of the receipt of the letter; otherwise, the right to appeal, seek assistance from CAP, and/or mediate the VR determination is forfeited.

If an Office Director Letter has not been issued, there is no time limitation within which an active consumer must request mediation.

Mediation Scheduling

Upon the request either by the consumer and VR, the consumer and CAP, or consumer alone, the Center will contact the other parties by letter within (2) business days with a follow-up phone call for scheduling. A convenient meeting time for the client and VR will be determined. A written notice of the scheduled mediation stating the date, time, place of the session, the name or names of the mediators and the names of the mediation participants will be sent or faxed by the NMCA Center to the consumer and to VR.

Mediation Session

The mediation session will be held in a location acceptable to all participants. Sessions will be scheduled for a three hour block; although, some sessions will last less than three hours. Extended or second sessions may be scheduled with the consent of all the participants including the mediator(s).

The mediation session is voluntary and may be discontinued at any time by the participants or the mediator(s). During the session, only issues relating to the basis of the mediation request will be negotiated. Mediators will explain the process, ask participants to tell how they see the situation, assist participants in understanding the issues and interests involved, and assist participants in generating and evaluating possible options. If participants reach an agreement, it will be written by the mediator(s) and signed by the participants.

The mediation session is confidential pursuant to the Nebraska Dispute Resolution Act. The mediators are bound by the Nebraska Office of Dispute Resolution's Manual of Standards and Ethics for Center Mediators, Directors, and Staff.

Agreement

An agreement reached by the parties to the dispute in the mediation process must be described in a written mediation agreement that is developed by the parties with the assistance of the qualified and impartial mediator and signed by both parties. Copies of the agreement must be sent to both parties. The agreement will become part of the consumer's casefile maintained by VR. The NMCA Center will maintain a copy of the agreement.

The mediator will complete the NMCA Center's closure form and submit it to the respective mediation center within (2) business days.

The mediation agreement may result in an amendment to an existing Individualized Plan for Employment (IPE).

No Agreement

If no agreement is reached, the consumer may request a fair hearing unless the consumer has already received an Area Administrator Letter and the 30-day response period has lapsed.

The mediator will complete the NMCA Center's closure form and submit it to the respective mediation center within (2) business days.

Discussions that occur during the mediation process must be kept confidential and may not be used as evidence in any subsequent due process hearings.

Evaluation

All participants will evaluate the mediation at the conclusion of the session using an evaluation form provided by the mediator. Mediators will submit the evaluation to the NMCA Center along with the closure form.

Cost of Mediation

The NMCA Center will bill VR for the cost of the mediation or intake when the case is closed. The mediation cost will be \$350 per case for rural centers and \$300 for urban centers. Each additional one-half hour of mediation will be charged at \$50.00 per half hour. Additionally, The NMCA Center will bill the VR for the cost of intake for cases that do not go to a mediation session at the rate of \$25.00 per half hour with a maximum of \$100.00. The mediation or intake cost includes all administrative costs relating to the pre and post sessions case management, mediator reimbursements, and evaluation/reporting requirements.

VR is not required to pay for any costs related to the representation by counsel or other advocate selected by the consumer.

All invoices for mediation or intake, along with a copy of the NMCA closure form, are to be mailed to:

Cathy Callaway, Program Specialist
Vocational Rehabilitation
P.O. Box 94987
Lincoln, NE 68509-4987

Reporting

NMCA Center will report case statistics quarterly for any quarter in which there was a referral for mediation. An annual report will be submitted to VR, which will include total number of cases mediated by centers; total number requests which resulted in an open case which subsequently was not mediated; and the total number of mediation orientations/trainings conducted at VR offices.

All quarterly case statistic and annual report for mediation or intake are to be mailed to:

Cathy Callaway, Program Specialist
Vocational Rehabilitation
P.O. Box 94987
Lincoln, NE 68509-4987